

Message

From: Bouma, Stacey [Bouma.Stacey@epa.gov]
Sent: 10/1/2020 5:04:19 PM
To: Gordon, Lisa Perras [Gordon.Lisa-Perras@epa.gov]; Able, Tony [Able.Tony@epa.gov]
CC: Wetherington, Michele [Wetherington.Michele@epa.gov]; Cooper, Jamal [cooper.jamal@epa.gov]
Subject: RE: Follow-up ORC GA Narrative.

Tony is out this afternoon. I can relay that we recommend Jeaneanne contact Leif directly concerning the following needed from ORC:

- Lead the discussion concerning the term “unreasonably” and explaining the legal meaning of this word.
- Follow up, based on the legal meaning, that this would be considered a change to standards.
- Discuss the litigation risks of the two options which is critical to the discussion.

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From: Gordon, Lisa Perras <Gordon.Lisa-Perras@epa.gov>
Sent: Thursday, October 1, 2020 12:42 PM
To: Able, Tony <Able.Tony@epa.gov>; Bouma, Stacey <Bouma.Stacey@epa.gov>
Cc: Wetherington, Michele <Wetherington.Michele@epa.gov>; Cooper, Jamal <cooper.jamal@epa.gov>
Subject: Follow-up ORC GA Narrative.

Stacey/Tony,

I passed along Jeaneanne’s comments to Michele on what the attorneys should say tomorrow.

From my notes,

- Jeaneanne said that our message is 1. the state submitted it as a change to standards to be reviewed, 2. our reading of it is that it is a change to standards, 3. they did not give us the information we needed, 4. we gave them an opportunity to give it to us again, 5. We did not get the information. She ended, “It’s just that simple.”
- She also said that if we get into an argument about ‘unreasonably’ then that’s where the attorneys have the strongest argument that unreasonably has a meaning. She wanted Leif to make the argument it is a change to standards and that they didn’t give us what we needed. She said, “stick to that, it’s our strongest argument.”
- She asked that the attorneys will be turned to for why the change is a standard, which she believes is primarily a legal argument.
- She also said that the litigation risks were critical to understand.

Michele noted, and I agree, that it is best if Jeaneanne were able to communicate that to Leif directly so that its not coming from me to Michele to Mita to Leif.

I was heartened to here Jeaneanne articulate our strongest arguments and encourage the attorneys to make those arguments tomorrow. Would it be possible for you to relay to Jeaneanne that it might be best for Leif to hear that directly from her?

Thanks, Lisa

Lisa Perras Gordon

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